

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

CAUSE NO. 1:22-cr-58-LG-RHWR-1

PATRICK DARNELL DANIELS, JR.

**ORDER DENYING THE GOVERNMENT'S
MOTION IN LIMINE CONCERNING JURY NULLIFICATION**

BEFORE THE COURT is the [30] Motion *in Limine* Concerning Jury Nullification filed by the Government in this matter. In a supporting Memorandum, the Government expresses its expectation “that, during trial, the Defendant may attempt to introduce evidence and/or make arguments that invite jury nullification.” (Mem. Auth. Supp. Govt.’s Mot. in Limine, 1, ECF No. 31). The Government argues that such topics of discussion as “medicinal marijuana, the Second Amendment, the Defendant’s potential danger to himself or others, and/or the Defendant’s potential punishment” are improper. (*Id.*).

The Government is correct that attempts at “jury nullification” are improper. “The Fifth Circuit Court of Appeals has ‘categorically rejected the idea that . . . jury nullification is desirable or that courts may permit it to occur when it is within their authority to prevent it.’” *United States v. Melton*, No. 3:08CR107-DPJ-LRA, 2008 WL 4829893, at *2 (S.D. Miss. Nov. 4, 2008) (quoting *United States v. Thompson*, 253 F.3d 700, 2001 WL 498430, at *16 (5th Cir. 2001)); *see also Thompson*, 2001 WL 498430, at *16 (“A trial judge . . . may block defense attorneys’ attempts to serenade a jury with the siren song of nullification. . . .”) (quoting *United States v.*

Sepulveda, 15 F.3d 1161, 1190 (1st Cir. 1993)). Moreover, “the right to make closing argument does not include the right to have counsel make an improper argument encouraging the jury to use its ‘de facto power to refuse to apply the law as instructed by the court [and] exercise . . . such power in dereliction of the jury’s sworn duty.’” *Thompson*, 2001 WL 498430, at *16 (quoting *United States v. Funches*, 135 F.3d 1405, 1408 (11th Cir. 1998)).

The Defendant is represented by competent and experienced trial counsel, fully aware of their legal and ethical responsibilities. The Court is unsure of the precise basis for the Motion or the nature of the Government’s expectations and cannot anticipate questions or arguments in advance. Therefore, the Motion will be denied with leave to assert appropriate objections in the event such matters arise during trial.

IT IS THEREFORE ORDERED AND ADJUDGED that the [30] Motion *in Limine* Concerning Jury Nullification filed by the Government is **DENIED**.

SO ORDERED AND ADJUDGED this the 15th day of July, 2022.

sl/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE